

LENSLOCK, INC.
MASTER SERVICES AGREEMENT
CLIENT #18-00525

CITY OF BAKERSFIELD
Agreement No. PD18-007
Approved 6-12-18

This MASTER SERVICES AGREEMENT ("Agreement"), is effective as of the date of the last signature below, and is by and between LensLock, Inc., with a primary location at 10815 Rancho Bernardo Road, San Diego, CA 92127 ("LensLock"), and **Bakersfield, CA Police Department** hereinafter referred to as "Client", located at 1601 Truxtun Avenue, Bakersfield, CA. 93301. The parties agree as follows:

Selected Equipment:

- 20 - Genesis 10 - Body Worn Cameras
- 2 - Genesis DS-20 Docking Stations
- All Miscellaneous Accessories

LensLock Online Platform Services:

- Unlimited Access to SaaS Technology Portal
- Customized Mobile App
- Data Storage Options – **Unlimited Data Plan**

LensLock Professional Services:

- Unlimited Customer Service & On-site Care
- 24 Hour Guaranteed Response via email, phone, and/or text
- 72 Hour Targeted Equipment Replacement (3 business days)

The Client is engaging LensLock's Equipment and Services for a one-year pilot program; if the Client elects, ultimately, to enter into long-term relationship with LensLock, the parties will either amend this agreement or execute a new agreement to provide for that relationship.

ADDITIONAL TERMS AND CONDITIONS:

1. **Prices and Fees.** Client agrees to pay to LensLock the following prices for Equipment, fees for Services, rates, plus any applicable tax:

Equipment:

Listed above.

Online Platform Services: Client will pay LensLock a total lump sum payment of \$15,999.80, within 30 days of receiving LensLock's invoice, based on \$799 per user for the term of this Agreement for 20 users, an annual records database maintenance fee of \$495, and normal shipping and handling (see attached business proposal). In no case will Client pay LensLock more than \$18,000 for the Equipment and Services under this Agreement.

2. **Duration.** The term of this Agreement begins June 1, 2018 and ends June 30, 2019.
3. **Terms and Conditions.** The Terms & Conditions outlined in the LensLock, Inc. corporate software license agreement set forth additional rights and obligations, and govern the Services, and are incorporated herein by reference.

**LENSLOCK, INC.
TERMS & CONDITIONS**

EQUIPMENT AND ONLINE SERVICES

1. Equipment. Under the LensLock's business model, all equipment is supplied inclusively to Client as part of the service agreement and LensLock agrees to train, support, and instruct Client in the proper use of the Equipment. Client understands that the LensLock Equipment described on the first page of this Agreement is included at no additional cost at the set price forth therein. LensLock owns the equipment and provides all said equipment as part of the master service contract.
2. Shipping Terms. Title to any software provided with Equipment remains with LensLock and its suppliers. Equipment may not be returned except with the prior written consent of LensLock, which may or may not include additional terms.
3. Intellectual Property. As between the parties, all hardware, services and software provided by LensLock, including the Online Platform Services, are the intellectual property of LensLock and its licensors, and any unauthorized use of same, including creating any derivative works by Client or any third party, is strictly prohibited and violates Federal Copyright laws, Title 17 of the United States Code. Pursuant to the terms of this Agreement, LensLock grants to Client the limited, non-exclusive, non-transferable, limited right to access the Online Platform Services during the term of the Agreement for purposes of access and use of the videos and audios produced by the Equipment and in compliance with the Agreement and applicable documentation. Conversely, it is understood that LensLock has limited access to all Client video files for internal testing and quality control assurance purposes.
4. System Operation and Limitations. Equipment is connected to a digital recorder computer and Client shall not use the computer for any other purpose. Client shall be permitted to access and make changes to the system's operation through the LensLock Online Platform Services. Depending on the data storage option selected, LensLock shall store data received from Client's Equipment for the agreed upon location. LensLock shall have no liability for data corruption or inability to retrieve data other than that liability otherwise provided for in this Agreement. Telephone or internet access is not provided by LensLock and LensLock has no responsibility for such access or IP address service. LensLock is not responsible for the security or privacy of any wireless network system or router or like equipment, and the foregoing are the Client's responsibility, including but not limited to securing access to the Equipment with pass codes and lock outs. LensLock shall have no liability for unauthorized access to the system through the internet or other communication networks or data corruption or loss for any reason whatsoever.
5. LensLock Online Platform Services. Upon receipt of a video verified event, the Equipment is designed to activate the Online Platform Services, upon which, LensLock or its designee central office, shall record and store the images and feeds from Equipment if such Equipment and Online Platform Services have been configured properly. Client acknowledges that signals transmitted from Client's Equipment to the Online Platform Services are not monitored by personnel of LensLock or LensLock's designee central office and LensLock does not assume any responsibility for the manner in which such signals are monitored or the response, if any, to such signals. Client acknowledges that signals which are transmitted through the internet, over telephone lines, wire, air waves, cellular, radio, internet, VOIP, or other modes of communication pass through communication networks wholly beyond the control of LensLock and are not maintained by LensLock, and LensLock shall not be responsible for any failure which prevents transmission signals from reaching the central office monitoring center or damages arising therefrom, or for data corruption, theft or viruses to Client's computers if connected to the communication equipment. Client authorizes LensLock to access the Client's accounts to input or delete data and programming in connection with the Online Platform Services. If Client requests LensLock to remotely activate or deactivate the system, change combinations, openings or closings, or re-program system functions, Client shall pay LensLock a fee for such service. LensLock may, without prior notice, suspend or terminate its services, in central station's sole discretion, in event of Client's default in performance of this Agreement or in event central station facility or communication network is nonoperational or Client's system is malfunctioning. LensLock is authorized to record and maintain audio and video transmissions, data and communications, and shall comply with local law requirements. LensLock may, but is not required to, update the Online Platform Services and any software in the Equipment that is capable of OTA updates. All updates to the foregoing are subject to the same terms and conditions as set forth in this Agreement. Client hereby grants LensLock a non-transferable, royalty-free license to use the data collected and stored within the Online Platform Services solely for Client's benefit and LensLock's internal purposes; provided that LensLock may use and disclose such data if and as required by court order, law or governmental or regulatory agency (after, if permitted, giving reasonable notice to LensLock and using commercially reasonable efforts to provide Client with the opportunity to seek a protective order or the equivalent (at Client's expense)). The parties agree to comply with the user terms and conditions set forth within the Online Platform Services and Privacy Policy therein.

6. Limited Warranty. The sole and exclusive performance warranties offered by LensLock for the Equipment and Online Platform Services are expressly set forth in Exhibit A (the "Performance Warranty"). Any Equipment that fails to conform to its Performance Warranty as confirmed by LensLock is referred to herein as a "Defective Equipment". The Performance Warranty shall survive the termination and expiration of the Warranty Period only with respect to any valid claim made by Client by written notice to LensLock prior to termination or expiration of such Warranty Period. Equipment may not be returned except for valid warranty claims subject to the terms and conditions of this Agreement.
7. System Testing. The parties hereto agree that the Equipment, once installed, is in the exclusive possession and control of Client, and it is Client's sole responsibility to test the operation of the system and to notify LensLock if any Equipment is in need of repair. Client agrees to test and inspect the Equipment upon completion of installation and periodically thereafter, and to advise LensLock in writing promptly after installation of any defect, error or omission in the Equipment or accessing the Online Platform Services.
8. Delete Data. Upon termination of this Agreement, LensLock shall be permitted to remotely delete programming and LensLock shall not be required to service the Equipment and shall cease processing Online Platform Services. Unless otherwise paid for by Client under the terms of this Agreement, LensLock shall not be obligated to hold any Client video or audio stored on the Online Platform Services longer than ninety (90) days past the termination of this Agreement.

GENERAL

9. Governmental Entities. If Client is a governmental, municipal, or quasi-governmental entity, Client represents and warrants to LensLock that: (a) Client has been duly authorized by the laws of the applicable jurisdiction, and by a resolution of Client's governing body, if legally required, to execute and deliver this Agreement and to carry out Client's obligations under this Agreement; (b) all legal requirements have been met, and procedures have been followed, including public bidding, if legally required, in order to ensure the enforceability of this Agreement; (c) that the Online Platform Services will be used by Client only for governmental or proprietary functions consistent with the scope of Client's authority and will not be used in a trade or business of any person or entity, or for any personal, family or household use; and (d) Client has funds available to pay fees until the end of its current appropriation period, and that Client intends to request funds to make payments in each appropriation period, from now until the end of the term of the Agreement.
10. Prices; Payment Terms. Prices are those in effect when LensLock accepts a purchase order. LensLock may accept or reject purchase orders in its sole discretion. Client must pay or promptly reimburse LensLock for any sales, use or any other local, state, provincial or federal taxes arising from the sale or delivery of the Equipment or provide an exemption certificate. All prices, models and material specifications are subject to change or withdrawal by LensLock without notice. Except as expressly set forth on the second page of this Agreement, all fees are due within thirty (30) days of invoice date. In the event Client fails to pay LensLock any monies when due, Client shall pay the lower interest of 1 1/2% per month or the amount allowed by applicable law from the date when payment is due on outstanding balances. In addition to any and all remedies available herein or at law, LensLock may suspend all services upon communication to Client for Client's failure to pay invoices when due. If Client exceeds its storage rights on the Online Platform Services, LensLock may increase storage and charge Client the overages in connection with such increases.
11. Termination. This Agreement may be terminated by either party at any time in the event of a breach or a failure to comply with the terms and conditions of this Agreement, but only after the non-breaching party has provided notice of such breach to comply and such breach remains uncured for sixty (60) days after the breaching party received such notice, but in the event of non-payment, such cure period shall be reduced to five (5) days. Either party may terminate this agreement upon thirty (30) days prior written notice to the other party; provided, however, if such termination by Client, Client shall not be relieved of its remaining payment obligations with respect to Equipment received and Online Platform Services which were ordered for the remainder of the then current term. All payments are due within thirty (30) days of termination of this Agreement. The following Sections survive termination of this Agreement: Sections 3, 6, 8, and 9 through 22.
12. WARRANTY DISCLAIMER.
 - a. LensLock does not represent nor warrant that Equipment or Online Platform Services may not be compromised or circumvented, or that Equipment or Online Platform Services will prevent any loss. Client acknowledges that any affirmation of fact or promise made by LensLock shall not be deemed to create a warranty unless expressly included in this Agreement in writing; that Client is not relying on LensLock's skill or judgment in selecting or furnishing Equipment suitable for any particular purpose and that there are no warranties which extend beyond those on the face of this Agreement, and that Client acknowledges that there may be more sophisticated equipment of which Client may procure on the open market for the same purposes as Equipment.

b. **EXCEPT FOR THE EXPRESS WARRANTIES IN SECTION 6 ABOVE, (A) LENSLOCK HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT IN CONNECTION WITH THE SERVICES AND EQUIPMENT, AND (B) LENSLOCK SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.**

13. **Complete Agreement.** This Agreement and any referenced terms herein constitute the entire understanding and agreement between the parties with respect to the subject matter hereof and shall supersede any prior understandings and agreements, whether written or oral, between the parties with respect to that subject matter. LensLock expressly limits acceptance of the Agreement to the terms stated herein. Any additional, different, or inconsistent terms or conditions contained in any form or purchase order from Client in connection with this Agreement are hereby objected to and rejected by LensLock and shall not apply to this Agreement.
14. **Security Interest; Credit; Lien Law.** In order to secure all indebtedness or liability of Client to LensLock, Client hereby grants and conveys to LensLock a security interest in, and mortgages to LensLock all of Client's Equipment proceeds thereof. LensLock is authorized to file a UCC-1 statement. Client and any guarantor authorize LensLock to conduct credit investigations to determine Client's and guarantor's credit worthiness. LensLock or any subcontractor engaged by LensLock to perform the work or furnish material who is not paid may have a claim against Client which may be enforced against the property in accordance with the applicable lien laws.
15. **Force Majeure; Other Events.** Neither party shall be considered in default of its performance of any obligation hereunder to the extent that performance of such obligation is prevented or delayed by acts of God; acts of the other party; war (declared or undeclared); terrorism or other criminal conduct; fire; flood; weather; sabotage; strikes, or labor or civil disturbances; governmental requests, restrictions, laws, regulations, orders, omissions or actions; unavailability of, or delays in, utilities or transportation; default of suppliers or other inability to obtain necessary materials; embargoes, or unforeseen circumstances or any other similar or dissimilar events or causes beyond party's reasonable control.
16. **Assignment; Waiver of Subrogation Rights.** Client may not assign this Agreement without the prior written consent of LensLock. Any such assignment without LensLock's prior approval shall be deemed a breach of this Agreement, and void *ab initio*. LensLock shall have the right to assign this Agreement and shall be relieved of any obligations created herein upon such assignment. Client on its behalf and any insurance carrier waives any right of subrogation Client's insurance carrier may otherwise have against LensLock or LensLock's subcontractors arising out of this Agreement or the relation of the parties hereto. Client acknowledges that this Agreement, and particularly those paragraphs relating to LensLock's disclaimer of warranties, exemption from liability, even for its negligence, limitation of liability and indemnification, inure to the benefit of and are applicable to any assignees, subcontractors and central offices of LensLock.
17. **Limitation of Liability.** **NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF ANTICIPATED PROFITS OR BUSINESS INTERRUPTION FOR ANY REASON. IN NOT EVENT SHALL LENSLOCK'S AGGREGATE LIABILITY FOR ANY LOSS OR DAMAGE ARISING OUT OF OR CONNECTION WITH THIS AGREEMENT EXCEED THE LESSER OF THE COST OF THE EQUIPMENT AND SIX (6) MONTH'S FEES FOR ONLINE PLATFORM SERVICES IMMEDIATELY PRIOR TO THE INCIDENT THAT GAVE RISE TO THE CLAIM.**
18. **Indemnification.** To the extent not prohibited by applicable law, Client shall defend, indemnify and hold harmless LensLock (including its shareholders, directors, officers, agents, and employees) from and against all claims, liabilities, losses, judgements, costs, damages, expenses and attorney's fees in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, to which LensLock is, was, or at any time becomes a party or is threatened to be made a party, due to: (i) the acts or omissions of Client; (ii) Client's breach of the Agreement; and (iii) any personal injury, death or damage to real property arising out of Client's use of the Equipment and Online Platform Services. To the extent not prohibited by applicable law, LensLock shall defend, indemnify and hold harmless Client (including its officers, agents and employees) from and against all claims, liabilities, losses, judgements, costs, damages, expenses and attorney's fees in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, to which Client is, was, or at any time becomes a party or is threatened to be made a party, due to: (i) the acts or omissions of LensLock; (ii) LensLock's breach of the Agreement; and (iii) any personal injury, death or damage to real property arising out of LensLock's performance of this Agreement.
19. **Subcontract.** Client agrees that LensLock is authorized and permitted to subcontract any services to be provided by LensLock to third parties who may be independent of LensLock, and that LensLock shall not be liable for any loss or damage sustained by Client by reason of fire, theft, burglary or any other cause whatsoever caused by the acts of third parties, and that Client appoints LensLock to act as Client's agent with respect to such third parties, except that LensLock shall not obligate Client to make any payments to such third parties.

20. Governing Law; Disputes. The Agreement and all rights and duties under the Agreement are governed by, and construed in accordance with, the laws of the State of California. The parties hereby irrevocably consent to exclusive jurisdiction of, and venue in, State or Federal court in California.
21. Miscellaneous. Other than routine communications made in the ordinary course of performing any obligations under this Agreement, all notices or other communications required or permitted to be given under this Agreement must be in writing and will be deemed to have been sufficiently given when delivered in person (with written confirmation of receipt), on the second business day after mailing via a responsible international courier, or on the fifth business day after mailing by first class registered or certified mail, postage prepaid, to the address stated on the first page of this Agreement or to such other address or individual as either party may specify from time to time in writing or transmitted electronically if confirmed in writing by one of the above methods. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. The parties intend that the relationship between them created under this Agreement is that LensLock is an independent contractor of Client only, and nothing contained herein is intended to create any other relationship between the parties. LensLock is not to be considered an employee, agent, joint venturer or partner of Client for any purpose whatsoever. Neither party is granted any right or authority to assume or create any obligation or responsibility for, or on behalf of, the other party or to otherwise bind the other party in any way. Except as prohibited by applicable law, the terms and conditions of this Agreement are confidential information of LensLock, and Client may not distribute this Agreement or disclose any contents hereof to any third party without the express written consent of LensLock.

EXHIBIT A
LIMITED WARRANTY

Equipment

LensLock warrants to Client that Equipment is free from defects in material and workmanship for the duration of the service contract ("**Warranty Period**") and subject to the terms set forth herein.

Additionally, it is understood by both parties that LensLock will supply new body cameras to Client based on the number of actual paid users on or before each twenty-four (24) month period from the start date listed above. Client may request new equipment prior to the twenty-four-month period but will be billed an additional set of fees for special orders. Client must approve said purchase in writing.

Online Platform Services and Professional Services

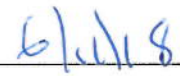
LensLock warrants that the Online Platform Services (a) will perform materially in accordance with the LensLock published documentation, and (b) professional services will be performed in a timely and professional manner by qualified persons with the technical skills, training, and experience to perform such Services.

**LENSLOCK, INC.
MASTER SERVICES AGREEMENT
SIGNATURE PAGE**

CLIENT: Bakersfield, CA Police Department:

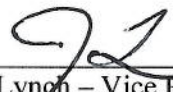


(Lyle Martin - Chief of Police)

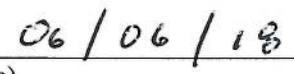


(Date)

VENDOR: LENSLOCK, INC.:



(Jeremy Lynch – Vice President)



(Date)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

"LensLock, Inc."

By: Jeremy Lynch
Print Name

Title: Vice President

APPROVED AS TO FORM:

VIRGINIA GENNARO

City Attorney

By: 

VIRIDIANA GALLARDO-KING

Associate Attorney

Insurance: 

APPROVED AS TO CONTENT:
BAKERSFIELD POLICE DEPARTMENT

JUN 12 2018

By: 

LYLE MARTIN

Chief of Police

COUNTERSIGNED:

By: 

NELSON SMITH

Finance Director



MASTER SERVICES CONTRACT

Terms & Conditions Agreement

for End User Government Purchasers
(Effective January 1, 2018)



Client #18-00525

Bakersfield, CA Police Department